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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

MAR - 4 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Interconnection Between Local  
Exchange Carriers and Commercial  
Mobile Radio Service Providers

CC Docket No. 95-185

To: The Commission

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**COMMENTS OF THE TELECOMMUNICATIONS  
RESELLERS ASSOCIATION**

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**TELECOMMUNICATIONS RESELLERS  
ASSOCIATION**

By: Charles C. Hunter  
Laura C. Mow  
Terry F. Berman  
Hunter & Mow, P.C.  
1620 I Street, N.W.  
Suite 701  
Washington, D.C. 20006

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Its Attorneys

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## **SUMMARY**

TRA agrees with the Commission that its current policies related to interconnection between CMRS providers and LECs, including, in particular the compensation arrangements for such interconnection, fail to sufficiently advance the development of competitive local exchange markets and should be modified. Accordingly, TRA urges the Commission to adopt specific changes designed to better serve its public interest goals.

First, with respect to the interconnection compensation model to be used by LECs and CMRS providers, TRA endorses the Commission's proposal to require -- at least on an interim basis -- a "bill and keep" compensation arrangement for terminating traffic. This arrangement is administrative simple, economically efficient, and best ensures that the LECs do not use their market power to extract unreasonably high rates from the less established CMRS providers in an attempt to discourage competition. TRA believes that this arrangement should be required for an interim period of two years, after which the Commission can re-evaluate whether this model best serves its public interest objectives.

The manner in which LEC-CMRS interconnection compensation arrangements should be implemented appears to have been mandated by the Telecommunications Act of 1996, which establishes certain procedures for the negotiation, arbitration and approval of interconnection agreements. TRA believes that these new statutory requirements provide an adequate framework for the implementation of the mandated "bill and keep" compensation arrangements and other terms and conditions of such interconnection, in that it provides for federal and state oversight to ensure that LECs live up to their statutory and regulatory obligations to provide interconnection to CMRS providers on a reasonable basis.

In considering the extent to which federal policies regarding CMRS interconnection with LECs should apply to the states, TRA believes that the "bill and keep" compensation arrangement must be uniformly applicable and urges the Commission to mandate adherence to this compensation arrangement by all states. The Commission has ample authority to take this specific preemption action based on the federal right of interconnection set forth in Section 332, and the additional authority granted in the recently enacted Telecommunications Act of 1996.

TRA believes that the rules adopted for LEC-CMRS interconnection arrangements in this proceeding should apply equally to all CMRS providers. Congress has mandated that substantially similar services should be subject to similar regulatory treatment. Any service qualifying as a "commercial mobile service," is entitled to the same benefits as all other commercial mobile services; if these rules are selectively applied only to certain CMRS providers, those services not enjoying the granted rights would be competitively disadvantaged.

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TELECOMMUNICATIONS RESELLERS ASSOCIATION**

The Telecommunications Resellers Association ("TRA"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby submits its Comments in response to the Notice of Proposed Rulemaking in the captioned proceeding, FCC 95-505 (released January 11, 1996) (the "Notice"). In the Notice, the Federal Communications Commission (the "Commission" or "FCC") examines whether its policies related to interconnection between commercial mobile radio service ("CMRS") providers and local exchange carriers ("LECs"), including in particular the compensation arrangements for such interconnection, sufficiently advance its stated public interest goals (i) to ensure the availability to consumers of goods and services at the lowest overall cost; (ii) to ensure an efficient level of innovation in terms of development of new services and the deployment of new technology, as well as the efficient entry

of new firms; and (iii) to ensure and advance universal basic telephone service.<sup>1</sup> The Commission further asserts, and TRA agrees, that interconnection policies which advance competition generally further each of these expressed public interest objectives, in that competitive markets typically encourage cost-based prices and efficiency in production and technological development, each of which in turn, increases the number of consumers willing to purchase the service.<sup>2</sup>

In reviewing its current policy requiring LECs to offer interconnection to CMRS providers on reasonable terms and conditions under a principal of "mutual compensation," the Commission concludes that this policy does not adequately meet its public interest goals, and suggests a number of measures which it believes are more likely to further its stated objectives. For the reasons below, TRA concurs with the Commission's conclusion that current interconnection policies are inadequate and addresses the various proposals advanced by the Commission to modify these policies.

## **I.**

### **INTRODUCTION**

TRA was created to foster and promote the interests of entities engaged in the resale of telecommunications services. TRA's members -- more than 450 resale carriers and their underlying service and product suppliers -- range from emerging, high-growth companies to well-established, publicly traded corporations. Although originally organized as an association of long

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<sup>1</sup> Notice at ¶¶ 4-6.

<sup>2</sup> Notice at ¶ 6.

distance resale carriers,<sup>3</sup> TRA now numbers among its members existing and potential resellers of cellular and other commercial mobile radio services, as well as entities which are rapidly moving into the resale of local exchange service.

As resale carriers, TRA's members employ the transmission, and often the switching, capabilities of underlying facilities-based network providers to create "virtual networks" to serve generally small and mid-sized commercial, as well as residential, customers, providing such entities and individuals with access to rates otherwise available only to much larger users. TRA resale carrier members also offer small and mid-sized commercial customers enhanced, value-added products and services, often including sophisticated billing options, as well as personalized customer support functions, that are generally not provided to low volume users.

Last year, TRA formed the Wireless Resale Council, an advisory committee to the Association charged with guiding industry policy and serving TRA members as a clearinghouse of information relating to resale of wireless services. More recently, TRA has formed the Local Resale Council, which focuses on similar issues involving the resale of local telecommunications services. The mission of each of these councils is to support the growth and availability of competitive wireless and local exchange services, respectively, and to facilitate competitive wireless and local exchange marketplaces through the promotion of resale of these services.

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<sup>3</sup> The emergence and dramatic growth of TRA's interexchange resale carrier members over the past five to ten years have produced thousands of new jobs and myriad new business opportunities. TRA's interexchange resale carrier members have facilitated the growth and development of second- and third-tier facilities-based long distance providers by providing an extended, indirect marketing arm for their services, thereby further promoting economic growth and development. This process will soon replicate itself with respect to both wireless and local services.

Since its inception, TRA has been a champion of competition in the telecommunications industry, first in interexchange telecommunications, and more recently, in international service, wireless service and local service. TRA believes that the development of competitive local markets constitutes the best means for achieving the many laudable public interest goals espoused by the Commission both in this and related proceedings.<sup>4</sup> As noted by the Commission, however, the LECs unquestionably still possess substantial market power in the provision of local exchange and exchange access services, and so retain the incentive and the ability to impede the FCC's public interest goals by their control over the manner in which interconnection is made available to CMRS providers. TRA strongly endorses, therefore, measures to ensure that the LECs do not use their market power to thwart competition from CMRS providers for provision of local telecommunications services.

Specifically, TRA agrees that the Commission should adopt a "bill and keep" or "sender keep all" approach with respect to interconnection rates for local switching facilities and connections to end users, pursuant to which the carrier interconnecting and delivering traffic to another would not compensate the terminating carrier for terminating calls. TRA further believes that this mandated "bill and keep" interconnection compensation arrangement can be implemented pursuant to the procedures established by Congress in the newly-enacted Telecommunications Act of 1996,<sup>5</sup> in which Congress establishes a procedure for the negotiation, arbitration and approval

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<sup>4</sup> See, e.g., Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd. 1411 (1994)("CMRS Second Report"); Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service, Notice of Proposed Rulemaking and Notice of Inquiry, 9 FCC Rcd. 5408 (1994)("Equal Access and Interconnection NPRM and NOI").

<sup>5</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996) (the "1996 Telecommunications Act").



of interconnection agreements. TRA urges the Commission, however, to ensure that the "bill and keep" compensation arrangement is uniformly applicable by mandating adherence to that arrangement by all states. Moreover, in order to better encourage development of a wide array of wireless services for consumers and to promote competition in the local exchange market, TRA believes that the benefits accruing from the interconnection rules and policies adopted in this proceeding should be available to all types of CMRS providers. Each of these measures, TRA believes, would best ensure that rates, terms and conditions for interconnection to LEC networks are reasonable and non-discriminatory, and would be more likely to lead to the development of competitive local markets.

The recently enacted 1996 Telecommunications Act contains a number of provisions addressing interconnection arrangements between LECs and other providers of telecommunications services, including CMRS providers. TRA believes that none of the measures urged here would conflict with the direction provided by Congress in the Act. Indeed, the proposals recommended by the Commission and endorsed here by TRA would further the goals espoused by Congress to adopt provisions regarding interconnection "to create competitive markets."<sup>6</sup>

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<sup>6</sup> H.R. Rep. No. 458, 104th Cong., 2d Sess. (1996), p. 117.

## II.

### DISCUSSION

#### A. **The "Bill And Keep" Interconnection Compensation Model Best Meets The Commission's Public Interest Objectives.**

In its Notice, the Commission proposed to require -- at least on an interim basis -- a "bill and keep" compensation arrangement with respect to (i) terminating access from LEC end offices to LEC end-user subscribers, and (ii) terminating access from equivalent CMRS facilities to CMRS subscribers.<sup>7</sup> Under this arrangement (also known as "sender keep all"), each interconnecting network is obligated to terminate traffic for, and is entitled to have its traffic terminated by, other carriers. No carrier pays any compensation to any other carrier for terminating service, in effect placing the compensation for terminating traffic at zero. Instead, each carrier recovers from its own end-users the cost of both originating traffic delivered to, and terminating traffic received from, the other networks.<sup>8</sup> This compensation model is administrative simple, economically efficient, and best ensures that the LECs do not use their market power to extract unreasonably high rates from the less established CMRS providers in an attempt to discourage competition.

The adoption of a "bill and keep" interconnection compensation model also is perfectly consistent with both the spirit and the specific mandates of the 1996 Telecommunications Act.

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<sup>7</sup> Notice at ¶ 60.

<sup>8</sup> TRA agrees with the Commission, however, that LECs should be able to recover the costs of providing dedicated transmission facilities between CMRS MTSOs and LEC networks through appropriate dedicated transport rates found in the LECs' existing access tariffs. See Notice at ¶ 64. The costs for these facilities generally are fixed and directly attributable to the entity using the dedicated transmission facilities, much like the costs for dedicated transport facilities used to connect LEC and interexchange carrier networks. The recovery of these costs through reasonably cost-based flat rates set forth in existing access tariffs, therefore, seems appropriate.

Indeed, new Section 252(d)(2)(B) explicitly allows for the "bill and keep" approach, stating that arrangements for charges for transport and termination of traffic "shall not be construed . . . to preclude arrangements that afford mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements) . . . " Accordingly, the Commission clearly has sufficient authority to require use of the "bill and keep" compensation arrangement urged here.

The current scheme of "mutual compensation," pursuant to which the LEC compensates the CMRS provider for traffic terminating on its network and the CMRS provider compensates the LEC for traffic terminating on its network, has not served to encourage reasonable and non-discriminatory interconnection arrangements.<sup>9</sup> Theoretically, mutual compensation policies work well in those cases where the two networks have approximately equal volumes of traffic since the compensation received by each network essentially cancels out the compensation paid to the other network. In this case, however, the LECs (which by the Commission's estimate reach 93.8 percent of all households)<sup>10</sup> clearly receive more terminating traffic from CMRS providers than the CMRS providers receive from the LECs. As a result of this traffic imbalance, the LECs have both the

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<sup>9</sup> These current interconnection obligations are contained in Section 201 of the Communications Act of 1934, as amended, 47 U.S.C. § 201, requiring LECs "to establish physical connections with other carriers," and are further articulated in the FCC's Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd. 1411, 1497-98 (1994) ("CMRS Second Report") (preempting state and local regulations of the kind of interconnection to which CMRS providers are entitled and applying the principal of mutual compensation in determining whether LECs are providing reasonable interconnection to CMRS providers).

<sup>10</sup> FCC, Com. Car. Bur., Industry Analysis Div., Monitoring Report, CC Docket No. 87-339, Table 1.1 (May 1995).

incentive and ability to negotiate very high rates for interconnection rights.<sup>11</sup> CMRS providers who need access to LEC customers in order to make their services competitive lack the power to refuse to pay LECs these unreasonably high rates and to demand a fully compensatory rate from the LECs in return. Even the addition of a nondiscriminatory requirement has little impact in this context, since the LECs would simply negotiate the "standard compensation rate" with their own CMRS affiliates to serve as the basis for the "nondiscriminatory" rates to be charged other CMRS providers.

Unlike the "mutual compensation" interconnection model, a "bill and keep" interconnection policy curbs the ability of LECs to use their market power to negotiate high rates for

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<sup>11</sup> Interconnection in the international services market provides the most striking historical lesson of the adverse effects of the "mutual compensation" model when a traffic imbalance exists. In the international context, the foreign carrier and the U.S. carrier each negotiate an "accounting rate," which reflects an agreed-upon amount for handling one minute of international telephone service by the two carriers. U.S. net settlement costs represent the difference between settlements owned by U.S. carriers for U.S. billed service and settlement payments owned to U.S. carriers for foreign billed service. Because monopoly markets continue to be maintained by foreign carriers in many countries (as opposed to the increased competition in the U.S. market for international services), the foreign carriers are able to force a higher, above-cost accounting rate for traffic terminating in their countries. This imbalance in the rate, combined with the significant increased traffic originating in the U.S. and terminating in foreign countries, have resulted in substantial and unwarranted U.S. net settlement costs and greater profits for the foreign carriers. These profits, in turn are used by the monopoly foreign carriers to preserve their monopoly status by thwarting attempts by new suppliers to enter the foreign carrier's international market. Without some regulatory intervention, the foreign carriers have no incentive to reduce their accounting rate. See Policy Statement on International Accounting Rate Reform, "Policy Statement," FCC 96-37, released January 31, 1996.

interconnection.<sup>12</sup> Because "bill and keep" is based on the theory that the incremental costs of terminating service are close to zero, each carrier has an incentive to increase the efficiency of operations to reduce actual costs and to maximize outgoing traffic. Moreover, under "bill and keep," LECs will have no incentive to manipulate traffic flow (by, for example, diverting its terminating traffic to its CMRS affiliate rather than to other unaffiliated CMRS providers); as a result, the balance of the traffic is increased.<sup>13</sup>

The "bill and keep" compensation model also is easy for the carriers to administer. There is no need to measure and bill for the termination of traffic or engage in a complex settlement process similar to that used in mutual compensation arrangements for international traffic. And while TRA would advocate some level of agency oversight both at the federal and the state level<sup>14</sup> -- as a general matter, the "bill and keep" approach substantially reduces the areas requiring Commission review to ensure that interconnection rates are reasonable and non-discriminatory.

TRA believes that the Commission should adopt the "bill and keep" policy for at least two years, at which time the Commission can re-evaluate whether this compensation model best serves

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<sup>12</sup> TRA believes, at least for the suggested interim period, that the "bill and keep" approach should be applicable to both off-peak and peak traffic. If "bill and keep" were limited to off-peak traffic only, the public policies objectives enumerated here would be undermined. Given that the LECs retain substantial market power in their local markets, it is essential that the interconnection compensation arrangement selected ensure that the LECs are not able to use that market power to impede the development of competitive markets. If the LECs are permitted to assess charges for peak-period traffic, they will easily be able to engage in the very behavior which the "bill and keep" compensation arrangement is intended to prevent.

<sup>13</sup> This is not to say, of course, that there is any likelihood that the terminating traffic actually will be balanced between LECs and CMRS providers any time in the near future. But policies which tend to encourage a balance in the traffic would at least move the process in the right direction.

<sup>14</sup> See discussion of pages 10-12 infra.

its public interest objectives. An interim period of this length is necessary, TRA believes, in order to permit CMRS providers and LECs consistency for purposes of business planning. A two year interim period also would give the Commission a reasonable length of time in which to observe the consequences of using "bill and keep" arrangements as its long-term approach to compensation for interconnection and to accurately weigh the actual costs and benefits of this approach derived from real life experience. This interim period also would permit the Commission to better take into account the structural and technological changes currently underway in the telecommunications industry resulting from the removal -- at both the federal and the state level - - of barriers to entry into local markets. A thorough consideration of each of these factors after the suggested two year interim period would ensure that the Commission has an adequate foundation to formulate the most appropriate long-term policy for interconnection arrangements.

**B. The 'Bill and Keep' Interconnection Compensation Arrangement Should Be Implemented Pursuant To New Section 252 Of The Communications Act.**

In the Notice, the Commission also requests comment on the manner in which LEC-CMRS interconnection compensation arrangements should be implemented.<sup>15</sup> While acknowledging that "LECs are currently required to engage in good faith contractual negotiations over CMRS interconnection arrangements,"<sup>16</sup> the Commission notes that some involvement in the formation and administration of LEC-CMRS interconnection arrangements may be necessary to counter

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<sup>15</sup> Notice at ¶ 95.

<sup>16</sup> Notice at ¶ 82 (citing the CMRS Second Report, 9 FCC Rcd. at 1497-98).

possible abuses of LEC market power.<sup>17</sup> Among the alternatives suggested by the Commission -

- (i) the public filing of voluntarily-negotiated interconnection contracts, (ii) the filing of interconnection arrangements as tariffs, and (iii) the imposition of contract tariff requirements set out in Section 61.55 of the Commission's Rules -- TRA had determined that the contract tariff option best balances the goals of economic efficiency, competition and negotiating flexibility.

The enactment of the 1996 Telecommunications Act, however, establishes certain procedures for the implementation of interconnection arrangements which appear to supersede any of the alternatives proposed by the Commission in the Notice. Specifically, new Section 252 of the Communications Act provides that, upon receiving a request for interconnection from a "telecommunications carrier" (which, by definition, includes CMRS providers), the LEC may enter into a binding agreement with the requesting carrier without regard to the interconnection standards set forth in new Section 251; provided, however, that at any point in the negotiations, either party may request that the state commission participate and first mediate and then arbitrate the differences of the parties by reference to the interconnection requirements set out in new Section 251. All negotiated or arbitrated agreements are required to be submitted to the applicable State commission for approval. In the event that a State refuses to act in accordance with these new provisions within specified timeframes, Congress further requires the Commission to preempt the State's jurisdiction of the matter at issue and to assume responsibility for such matter.

TRA believes that these new statutory requirements provide an adequate framework for the implementation of LEC-CMRS interconnection arrangements. Whatever the interconnection compensation model ultimately selected by the Commission to apply to all LEC-CMRS

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<sup>17</sup> Notice at ¶ 88.

interconnection arrangements, the federal and state oversight set forth in new Section 252 is necessary to ensure that the rates and terms of interconnection are reasonable and non-discriminatory. Even the "bill and keep" interconnection compensation arrangement proposed by the Commission and supported by TRA, goes only to the charges for terminating traffic, and does not address the myriad terms and conditions accompanying the interconnection arrangement or other costs not associated with the charges for terminating traffic. Notwithstanding the compensation model selected by the Commission, therefore, as CMRS providers proceed to establish interconnection arrangements with the LECs, many terms and conditions will be open for negotiation. And as experience has shown with expanded interconnection for special and switched access providers and cellular interconnection, LEC market power provides both the ability and the incentive for the LECs to engage in discriminatory and anti-competitive conduct with respect to unaffiliated CMRS providers requesting interconnection.

**C. The Commission Should Require That The States Adopt The 'Bill and Keep' Interconnection Compensation Arrangement.**

In its Notice, the Commission requested comment on the extent to which it was necessary and permissible to preempt state authority in the implementation of LEC-CMRS interconnection policies.<sup>18</sup> TRA believes that certain federal policies regarding CMRS interconnection with LECs must apply to the states if Congressional objectives to enhance competition and advance a seamless national network are to be met.<sup>19</sup> In particular, financial arrangements for interconnection with LECs are critical to the viability of wireless technologies in the local marketplace. Unless

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<sup>18</sup> Notice at ¶¶ 107 - 112.

<sup>19</sup> See Notice at ¶ 45.



there is a single set of rules for interconnection compensation arrangements, conflicting state rules could impede the development of wireless networks by permitting LECs to block entry into local markets by setting interconnection rates too high, thereby delaying or even preventing the development of the seamless national network envisioned by Congress. Accordingly, TRA urges the Commission to require that the states adopt the "bill and keep" compensation model for LEC-CMRS interconnection arrangement. This specific policy parameter still would preserve a degree of discretion for state commissions to develop various methods to implement this arrangement (in accordance, of course, with the dictates of new Section 252 of the Communications Act adopted in the 1996 Telecommunications Act).

The Commission has ample authority to take this specific preemption action. Section 332(c)(1)(B) of the Communications Act of 1934, as amended, establishes a federal right of interconnection for CMRS providers, providing that "[u]pon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of Section 201 of this Act."<sup>20</sup> Section 332(c)(3) in turn, prohibits the states from regulating entry of CMRS providers and limits their jurisdiction over rates for CMRS to limited instances authorized by the Commission. And while the Commission earlier declined to preempt LEC intrastate interconnection rates in its CMRS Second Report on the grounds that LEC costs associated with intrastate and interstate cellular services were segregable, it has specifically preempted all state regulation that prevents

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<sup>20</sup> The Committee Report accompanying the legislation adopted Section 332(c)(1)(B) stressed the importance of this provision, noting that "the Committee considers the right to interconnect an important one which the Commission shall seek to promote, since interconnection serves to enhance competition and advance a seamless national network." H.R. Rep. No. 111, 103rd Cong., 1st Sess. (1993), p.261.

the physical interconnection of LEC and CMRS networks.<sup>21</sup> Most recently, the 1996 Telecommunications Act further increased the Commission's role with respect to interconnection, establishing certain duties applicable to LECs in their provision of interconnection to CMRS providers (among other telecommunications carriers), including the duty to establish reciprocal compensation arrangements (such as "bill and keep"), and specifically directing the Commission to formulate the regulations necessary to implement these requirements.<sup>22</sup>

TRA agrees with the Commission's current assessment in the Notice that the adoption by the states of mutual compensation or other models for LEC-CMRS interconnection rates could preclude reasonable interconnection by CMRS providers. If LECs are permitted to use their substantial market power to restrict reasonable interconnection by CMRS providers, the development of competitive local markets is hindered contrary to the explicit public interest objectives of both the Commission and Congress. In light of the strong federal interest in ensuring reasonable interconnection to the LEC networks by CMRS providers and the substantial risk that this interest would not be served by conflicting state regulations of LEC-CMRS interconnection rates, TRA urges the Commission to require all states to require that all LEC-CMRS interconnection agreements be based on the "bill and keep" compensation arrangement.

**D. The Rules Adopted For Interconnection Arrangements  
In This Proceeding Should Apply To All CMRS Providers.**

In considering the scope of the rules to be adopted in this proceeding, the Commission requests comment on whether these interconnection arrangements should apply to (i) broadband

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<sup>21</sup> CMRS Second Report, 9 FCC Rcd. at 1498.

<sup>22</sup> Pub. L. No. 104-104, 110 Stat. 56 (new Section 251).

personal communications services ("PCS") providers only; (ii) broadband PCS, cellular telephone, specialized mobile radio, satellite telephony, and any other CMRS providers that would compete with LEC landline providers; or (iii) all CMRS providers.<sup>23</sup> TRA believes that any rules adopted with respect to interconnection between CMRS providers and LECs should be applied to all CMRS providers in order to ensure that the benefits to be derived thereunder are equally available to all services subject to the same regulations.

In the Omnibus Budget Reconciliation Act of 1993 (the "1993 Budget Act"), Congress concluded that substantially similar services should be subject to similar regulatory treatment and directed the Commission to review its rules and regulations to achieve regulatory parity among such services.<sup>24</sup> In particular, to the extent that a particular service qualified as a "commercial mobile service,"<sup>25</sup> the Commission was tasked to ensure that providers in such services were subject to consistent burdens and benefits in order that they could compete more effectively with each other. Since enactment of the 1993 Budget Act, the Commission has initiated a series of proceedings designed to establish a regulatory structure that imposed similar rules and

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<sup>23</sup> Notice at ¶118.

<sup>24</sup> Pub. L. No. 103-66, Title VI § 6002(b), 107 Stat. 312, 392 (1993). See also H.R. Rep. No. 111, 103rd Cong., 1st Sess. (1993), p.259 ("[t]he Committee finds that the disparities in the current regulatory scheme could impede the continued growth and development of commercial mobile service . . .").

<sup>25</sup> Section 332 of the Communications Act defines CMRS as "any mobile service . . . that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public." 47 U.S.C. § 332(d)(1).

requirements on all services qualifying as commercial mobile services.<sup>26</sup> The selective application of the interconnection rules adopted here to some, but not all, CMRS providers, would unnecessarily harm certain CMRS providers by making them less competitive than those CMRS providers able to avail themselves of the benefits under these rules.

All CMRS providers will benefit from the interconnection policies adopted here to ensure that LECs permit interconnection under reasonable and non-discriminatory rates, terms and conditions. Access to LEC subscribers is critical for all CMRS providers if the wireless technologies pursued by these providers are to be competitive with other telecommunications services and if new services are to be developed. The potential harm resulting from selective application of these rules would appear to significantly outweigh any administrative benefits that may result from excluding certain CMRS providers from the benefits to be derived from these rules. While interconnection to LECs may play a more critical role in certain types of CMRS systems than others at present, such distinctions are likely to change as technologies and networks evolve. The CMRS provider to whom interconnection means little today is very likely to be in need of interconnection tomorrow. Similarly, the CMRS provider which is less competitive with local telephone services today is likely to evolve into a more competitive alternative as the technology of its service develops. Given the rapid development of all wireless technologies and the integral part that interconnection is likely to play in any competitive service, reasonable and non-discriminatory interconnection arrangements must be available equally available to all CMRS providers.

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<sup>26</sup> See, e.g., Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd. 1411 (1994); Third Report and Order, 9 FCC Rcd 7988 (1994); Fourth Report and Order, 9 FCC Rcd. 7123 (1994).

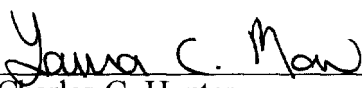
### **III.**

## **CONCLUSION**

The Commission has recognized the importance of assuring that CMRS providers are able to interconnect to LEC networks on reasonable terms and conditions. In order to achieve this objective and to further the stated public interest goals underlying this objective, TRA urges the Commission to (i) adopt a "bill and keep" policy for interconnection rates between CMRS providers and LECs; (ii) implement this "bill and keep" arrangement in accordance with new Section 253 as set forth in the 1996 Telecommunications Act; (iii) mandate that the states require the "bill and keep" compensation arrangement for all LEC-CMRS interconnection agreements; and (iv) apply its new rules on interconnection to all CMRS providers.

Respectfully submitted,

**TELECOMMUNICATIONS  
RESELLERS ASSOCIATION**

By:   
Charles C. Hunter  
Laura C. Mow  
Terry F. Berman  
Hunter & Mow  
1620 I Street, N. W.  
Suite 701  
Washington, D.C. 20006  
(202) 293-2500

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Its Attorneys